

Senate Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 19

**SENATE BILL 1211**

AN ACT

CHANGING THE DESIGNATION OF TITLE 44, CHAPTER 10, ARTICLE 9, ARIZONA REVISED STATUTES, TO "BEER FRANCHISES"; AMENDING SECTIONS 44-1565, 44-1566 AND 44-1567, ARIZONA REVISED STATUTES; RELATING TO BEER FRANCHISES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Heading change

3 The article heading of title 44, chapter 10, article 9, Arizona Revised  
4 Statutes, is changed from "SPIRITUOUS LIQUOR FRANCHISES" to "BEER  
5 FRANCHISES".

6 Sec. 2. Section 44-1565, Arizona Revised Statutes, is amended to read:

7 44-1565. Definitions

8 In this article, unless the context otherwise requires:

9 1. "Beer" means any beverage obtained by the alcoholic fermentation,  
10 infusion or decoction of barley malt, hops or other ingredients not  
11 drinkable, or any combination of them. BEER DOES NOT INCLUDE SPIRITUOUS  
12 LIQUOR.

13 2. "Franchise" means a commercial relationship between a supplier and  
14 a wholesaler which includes all of the following:

15 (a) A commercial relationship of definite duration or continuing  
16 indefinite duration is involved.

17 (b) ~~The wholesaler is granted~~ A GRANT TO THE WHOLESALER OF the right  
18 to offer, sell and distribute within this state or any designated territory  
19 such of the supplier's brands of ~~spiruous liquors~~ or beer as may be agreed  
20 upon. The requirements of this paragraph are not intended to preclude a  
21 supplier from establishing more than one commercial relationship of any kind  
22 within or with relation to activity in this state or any designated territory  
23 therein not in violation of article 1 of this chapter.

24 (c) An agreement relating to transferability of the commercial  
25 relationship.

26 3. "Good cause" means failure by the supplier or the wholesaler to  
27 comply with the provisions of an agreement as delineated therein, which  
28 provisions are not unconscionable. Good cause does not include failure or  
29 refusal on the part of the wholesaler or supplier to engage in any trade  
30 practice, conduct or activity which would result in a violation of any  
31 federal law or regulation or any laws or regulations of this state.

32 4. "Good faith" means the duty of each party to any franchise and all  
33 officers, employees or agents thereof to act in a fair and equitable manner  
34 in carrying out the agreement.

35 5. "Spiruous liquor" includes alcohol, brandy, whiskey, rum,  
36 tequila, mescal, gin, wine, porter, absinthe, a compound or mixture of any  
37 of them or of any of them with any vegetable or other substance, alcohol  
38 bitters, bitters containing alcohol, any liquid mixture or preparation,  
39 whether patented or otherwise, that produces intoxication, fruits preserved  
40 in ardent spirits and beverages containing more than one-half of one per cent  
41 of alcohol by volume. ~~Spiruous liquor does not include beer.~~

42 6. "Supplier" means any person other than a wholesaler engaged in  
43 business as a manufacturer, distiller, rectifier, importer, brewer, vintner,  
44 broker or agent which distributes any or all of its ~~spiruous liquors~~ or  
45 beer through duly licensed wholesalers in this state.

1        7. "Wholesaler" means any person licensed by the department of liquor  
2 licenses and control to sell at wholesale ~~spirituous liquors or beer to~~  
3 retailers duly licensed in this state.

4        Sec. 3. Section 44-1566, Arizona Revised Statutes, is amended to read:

5        44-1566. Prohibition against franchise termination

6        A. ~~A supplier of spirituous liquor or wholesaler of spirituous liquor~~  
7 ~~shall not fail to act in good faith in performing or complying with any~~  
8 ~~terms, provisions or condition of the franchise or in terminating or~~  
9 ~~canceled a franchise. Any termination or cancellation shall be done in good~~  
10 ~~faith and for good cause.~~

11        B. A supplier of beer or wholesaler of beer shall not fail to act in  
12 good faith in performing or complying with any terms, provisions or condition  
13 of the franchise or in terminating, canceling or not renewing a franchise.  
14 Any termination, cancellation or failure to renew shall be done in good faith  
15 and for good cause.

16        Sec. 4. Section 44-1567, Arizona Revised Statutes, is amended to read:

17        44-1567. Action for damages; other remedies; defense

18        A. Any wholesaler may bring an action against a supplier or a supplier  
19 may bring an action against a wholesaler for violation of any provision of  
20 section 44-1566 in any court of competent jurisdiction and may recover the  
21 damages sustained by him. In such action the prevailing party shall receive  
22 reasonable attorney's ATTORNEY fees.

23        B. The remedies provided in this section are independent of and  
24 supplemental to any other remedy or remedies available to the wholesaler or  
25 supplier in law or equity.

26        C. ~~In any action pursuant to this section for termination or~~  
27 ~~cancellation of a franchise in violation of section 44-1566, subsection A,~~  
28 ~~it shall be a complete defense to prove that such termination or cancellation~~  
29 ~~was done in good faith and for good cause.~~

30        D. C. In any action pursuant to this section for termination,  
31 cancellation or failure to renew a franchise in violation of section 44-1566,  
32 subsection B, it shall be a complete defense to prove that the termination,  
33 cancellation or failure to renew was done in good faith and for good cause.

34        E. D. A person violating the provisions of section 44-1566 shall not  
35 be subject to criminal prosecution as provided in section 4-246 for such  
36 violation.

APPROVED BY THE GOVERNOR APRIL 10, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2002.

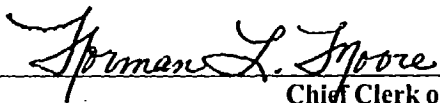
Passed the House April 3, 2002,

by the following vote: 47 Ayes,

9 Nays, 4 Not Voting



Speaker of the House

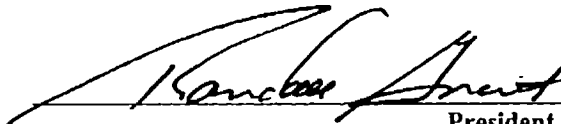


Chief Clerk of the House

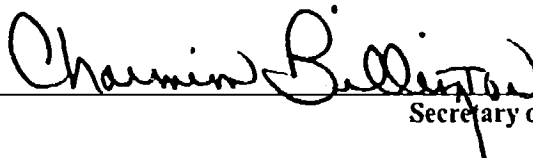
Passed the Senate March 18, 2002,

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting



President of the Senate



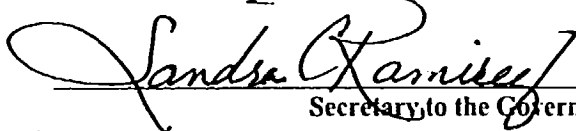
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

4 day of April, 2002,

at 11:56 o'clock A M.

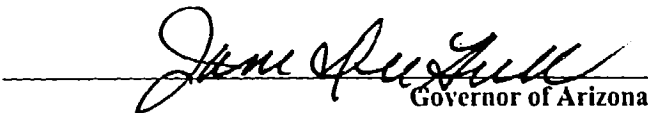


Secretary to the Governor

Approved this 10 day of

April, 2002

at 11:05 o'clock A M.



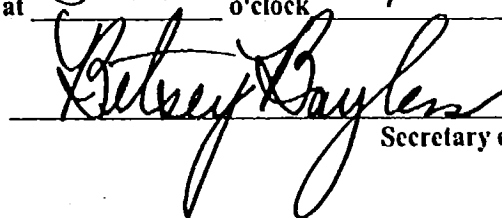
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of April, 2002,

at 3:19 o'clock P M.



Secretary of State

S.B. 1211